

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES M. SWEENEY, *et al.*,)
Plaintiffs,) CIVIL ACTION
vs.) NO. 08 C 3859
F & A CONSULTING GROUP, INC.,) JUDGE WILLIAM T. HART
an Illinois corporation,)
Defendant.)

AFFIDAVIT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

DAVID S. BODLEY, being first duly sworn upon his oath, deposes and states:

1. He is now, and has since the first day of May, 1999, been employed by the Trustees of the Midwest Operating Engineers Fringe Benefit Funds as administrative manager, and in such capacity, has personal knowledge of the matters hereinafter set forth and if called as a witness in the instant proceedings is competent to testify in respect thereto.

2. He has read the Complaint filed in this cause, and knows of his own personal knowledge the contents of the collective bargaining agreements and Agreements and Declarations of Trust and all facts alleged therein, and if called and sworn as a witness is competent to testify thereto.

3. He is charged with keeping and maintaining records of contributions received by the Plaintiff Funds, maintains individual records on each person, firm and corporation required to make contributions to said Plaintiff Funds, receives and records contribution reports made by such persons, firms or corporations, and has under his supervision and direction all books, records, documents and papers relating to such Plaintiff Funds.

4. He has examined the account of Defendant, F & A CONSULTING GROUP, INC., an Illinois corporation, in the above-entitled action, and states that said Defendant is required to submit monthly contribution reports accompanied by payment of fringe benefit contributions, under the terms of a written agreement specifying and describing such obligation.

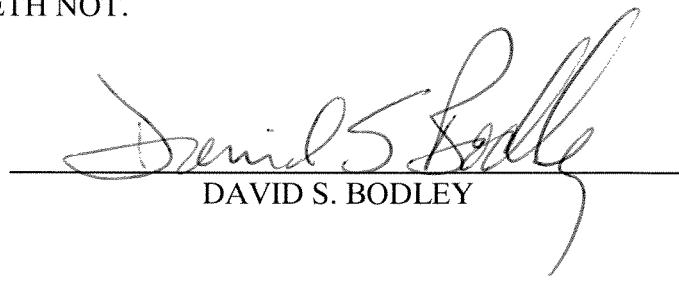
5. In his capacity as Administrative Manager, he has become familiar with the administration of multi-employer fringe benefit funds, and that the custom and usage in maintaining such funds is to require an audit of the payroll books and records of employers required to file contribution reports, in order to determine contributions due such funds.

6. That absent the performance of an audit as requested, Plaintiffs have no alternative means by which they can determine with the degree of accuracy required of them by law and the actual contributions which Defendant is required to have made to Plaintiffs.

7. He is duly authorized by Plaintiffs in this behalf, has personal knowledge of the matters set forth above and if called as a witness in this cause, is competent to testify thereto.

8. He makes this Affidavit in support of the application of Plaintiffs for entry of default and for an order directing an audit of Defendant's payroll books and records and requests this Court to consider the same as proof in support of the allegations contained in the Complaint of the Plaintiffs and such other facts herein set forth.

FURTHER AFFIANT SAYETH NOT.



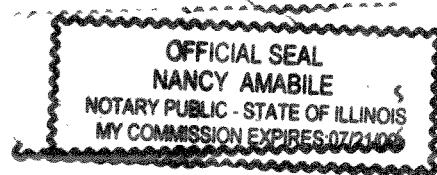
DAVID S. BODLEY

SUBSCRIBED AND SWORN
TO before me this 4th
day of August 2008.



Nancy Amabile
NOTARY PUBLIC

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that he electronically filed the foregoing document (Affidavit of David S. Bodley) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 13th day of August 2008:

Mr. Joseph W. Evervein, Registered Agent
F & A Consulting Group, Inc.
7366 N. Lincoln Avenue, #400
Lincolnwood, IL 60712

/s/ Patrick N. Ryan

Patrick N. Ryan
Attorney for Plaintiffs
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